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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
Melanie H. Cobb *et al.*

Serial No.: 09/686,346

Filed: October 10, 2000

For: TAO PROTEIN KINASE POLYPEPTIDES  
AND METHODS OF USE THEREFOR

Group Art Unit: 1652

Examiner: Monshipouri, M.

Atty. Dkt. No.: UTSD:1276USC1

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37 C.F.R. § 1.8

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March 17, 2003  
Date

Mark B. Wilson

RESPONSE TO RESTRICTION REQUIREMENT  
DATED JANUARY 17, 2003

Commissioner for Patents  
Washington, D.C. 20231

Sir:

This paper is submitted in response to the "Restriction Requirement" dated January 17, 2003, ("the Requirement") for which the date for response is March 17, 2003.

It is believed that no fees under 37 C.F.R. §§ 1.16 to 1.21 are occasioned by the filing of this paper; however, should the Commissioner determine otherwise, the Commissioner is hereby authorized to deduct said fees from Fulbright & Jaworski Deposit Account No. 50-1212/UTSD:1276USC1.

## **RESPONSE**

Applicants traverse this “restriction requirement,” on the grounds that it is actually an improperly characterized species election requirement for the reasons set forth in the Remarks section below.

In view of this traversal, Applicants elect the species of the invention directed to methods of screening modulators of MAP kinase signal transduction through modulating TAO2 kinase in order to activate MEK3, as described in Group IVb(3) of the Requirement. In doing so, Applicants do not disclaim the subject matter of the other species.

In the event that Applicant’s traversal of the status of the Requirement as a restriction requirement is unsuccessful, Applicants elect to prosecute the Group IVb(3) invention, as exemplified by claims 28-48 (in part), drawn to methods of screening modulators of MAP kinase signal transduction through modulating TAO2 kinase in order to activate MEK3. In doing so, Applicants do not disclaim the subject matter of the other groups and do not traverse the Requirement’s finding that the three groups are drawn to patentably distinct inventions.

## **REMARKS**

The Requirement sets forth a proper species election requirement, but does not set forth a proper restriction requirement, for the reasons set forth below.

Independent claims 28 and 29, as pending, comprise generic, linking claims, which recite an “MEK polypeptide.” Claim 34, which depends from both of claims 28 and 29, sets forth that “said MEK is selected from the group consisting of MEK1, MEK2, MEK3, MEK4, and MEK6,” *i.e.*, claims five species of the invention using proper Markush group format.